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# Free Speech and the News Media

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1. The November Issue

The November issue will be devoted to a symposium on Free Speech and the News Media. The symposium will focus on the scope of the protection the First Amendment affords the news media.

2. The January Issue

The January issue will be devoted, in part, to our traditional student review of recent significant decisions of the California courts. The remainder of the issue will be devoted to open topics.

3. The February Issue

The February issue will also be devoted in part to our annual California courts review. The remainder of the issue will be devoted to open topics.

4. The March Issue

The March issue will be devoted to a symposium on Minority Rights and Fair Representation. The symposium will deal with the rights of members of minority factions within unions and the rights of dissident employees.

5. The April Issue

*Legal Fees* } The April issue will be devoted to a symposium entitled "The Practitioner's Journal." The Practitioner's Journal will be directed at the problems most often encountered by small California law firms engaged in a general practice. It is hoped that this issue will become a tradition of the Hastings Law Journal.

6. The May Issue

The May issue will be devoted to the annual Circuit Court Review, which is devoted to student material on recent significant Circuit Court decisions.

Also under consideration are symposia on: (1) The Equal Rights Amendment and California statutes; and (2) A symposia on Legal Education.

## FREE SPEECH AND THE NEWS MEDIA

In the last few years a great deal of attention has been focused on the scope of the protection that the First Amendment affords the news media. The right of the media to disseminate and the public to receive information has conflicted with a number of important interests: the right to redress a libel, national security classifications of secret information, executive privilege and the right to a fair and impartial trial are the most obvious and significant.

Although much has been written in this area a symposium treatment of the subject will serve to examine the unexplored topics and update subjects that have evolved significantly in the past year or two.

The common thread connecting the topics is that each public or private interest involved must be considered in the light of the First Amendment protection of the media. This can best be done as to any one interest in a forum which discusses the other conflicting interests and thus makes the reader aware of the cumulative pressure on the media's First Amendment protection.

## SUGGESTED TOPICS

1. Is a reporter's privilege really essential to maintain a free press? This article should consider both the absolute privilege and the conditional privilege. Perhaps it could be authored by a non-lawyer.
2. Does the President have executive privilege to suppress criminal evidence? Is the incamera inspection proper and, if so, does that task belong solely to the judiciary?
3. Times v. Sullivan & Metromedia
  - a) Should the First Amendment effectively destroy the right of a public figure to recover in a libel action?
  - b) Does the right to reply offer a realistic remedy? Is retraction adequate?
4. Pentagon Papers -- The government may withhold information on National Security grounds and yet a newspaper cannot be punished for printing that same information. Is the classification system in its present form constitutional? Rational?
5. Freedom of Information Act
  - a) What real effect does it have?
  - b) What standards exist for security classification?
6. Fairness Doctrine
  - a) Is a regulatory "need" still valid with CATV?
  - b) Why a difference in electronic/printed media standards?
  - c) Who owns the airwaves?
7. Is the Gag Rule on counsel and jurors consistent with the First Amendment? If so, how strict may it be?
8. T.V. in court: California Rule ~~7~~<sup>7</sup>80 says no; is this still sound?
  - a) Modern technology can overcome the disruption with silent, concealed cameras.
  - b) What better way to give a public trial?
  - c) Would public exposure really prejudice a defendant? Should T.V. be limited to trial itself?

SUGGESTED TOPICS

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9. Proposed Shield Laws -- Powell's concurring opinion in Branzburg indicates considerable sympathy for the media.
10. Former Vice-President Agnew was granted the power to subpoena newsmen although no charges had been filed. How does this stand up under a First Amendment analysis?
11. Does an elected official have any right to privacy at all? Consider the effect of Times v. Sullivan, shield laws and recent disclosure laws.

12. *Anti Trust and the media*

13. *Power to license + control content*

Open Topics to be Considered for the January  
and February Issues

1. Individual voting rights
2. California's permutations of the UCC
3. Proposals for a federal automobile certificate of title system
4. Attorney-client relations in class actions
5. Several articles on the decriminalization of victimless crimes
6. Liability of attorneys and accountants for negligent misrepresentation
7. Products liability
8. International law
9. Punitive damages
10. Developments in choice of laws
11. Legal aspects of encounter groups
12. Public sector bargaining
13. Legal rights of the mentally handicapped
14. The Equal Rights Amendment and California statutes
15. Legal education
16. Juvenile rights

## Minority Rights and Fair Representation

The dilemma faced by members of minority factions within unions and by dissident employees who assert rights adverse to the union and the employer will be explored in this symposium.

In cases where the employee acts in a manner adverse to the union and the employer the efficacy of the arbitration process is questionable. Indeed, even the duty of fair representation is placed in a precarious position.

This conflict of interest is also evident within the ranks of the unions themselves. The trend towards centralization and large bargaining units has brought into focus the problem of minority rights and fair representation. Union caucuses have evolved in reaction to the trend towards larger units. This evolving form of pluralism within union ranks is a subject worthy of symposium treatment.

The problem of minority rights and fair representation surfaces in various areas of labor law, such as arbitration, Title IV and Title VII cases and in the doctrine of exclusivity. The March issue will explore the problem of minority rights and fair representation in relation to these areas.

### Topics to be Considered

1. Title IV and the status of preelection remedies
2. The Emporium case
3. The effect of arbitration in Title VII cases
4. Arbitration and the dissident employee
5. Minority rights and the duty of fair representation
6. Exclusivity and the duty of fair representation
7. Multi-level bargaining
8. The union caucus; a trend towards pluralism?
9. The N.L.R.B. and centralization: how desirable?



PRACTITIONER'S SYMPOSIUM

*Rejected*

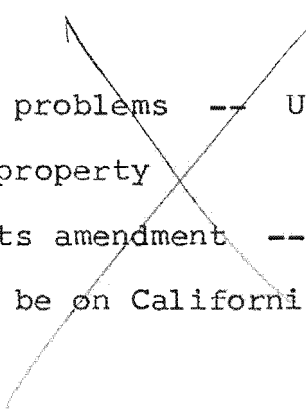
Initially the term "practitioner" must be defined to make a discussion of a potential symposium in this area more meaningful. The Research Staff conceives of the "practitioner" as an individual working with problems of a very broad and general nature without specialization in any particular area. The "practitioner's" clients range in size from the small corporation or partnership to a single individual. The theory behind a symposium predicated on practitioner's problems and areas of interest is twofold. First of all, the area has extremely broad perimeters and is conducive to a wide variety of articles, and secondly, allows an entire issue to be devoted to issues that are not frequently subjected to law journal analysis.

Thus if the articles are selected after solicitation of the smaller offices in the area, the thought of the Research Staff is that the audience of the Hastings Law Journal will be expanded.

Potential areas for this symposium include:

- 1.) Usury statutes
- 2.) Exemptions
- 3.) Uninsured motorist legislation
- 4.) The practical effects of the recently passed  
Dymally Bill on Community Property
- 5.) Principal-Income Act
- 6.) Efficient use of paralegals



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- 7.) Family law problems -- Unequal distribution of  
community property
- 8.) Equal rights amendment -- What will the results  
of passage be on California statutes in specific  
areas.

SYMPOSIUM  
ERA & CALIFORNIA STATUTES

*Rejected  
as Symposium*

Almost all of the recent law review articles and comments that touch on the subject of the ERA has typically concerned themselves with either (1) a survey of how the ERA would affect various areas of the law OR (2) an analysis of the ERA's effect on a particular area of the law (such as employment, property, etc.)

This symposium is not envisioned as a "replay" of the above themes as they concern California law. The thrust of this symposium is to be aimed at what the revised California statutes SHOULD BE, assuming that the ERA has been ratified.

In many cases, the revision of a statute to conform to the ERA will not be a simple matter of changing the words "man" or "woman" to the word "person". Rather, the revisions will most likely be the product of a re-evaluation and reconsideration of policies, many of them ancient and outdated, that underlie the existing statutes, in light of contemporary society. This symposium would provide a vehicle for authors to examine these policy considerations, to analyze them with a view towards the future, and to make recommendations of the law as it should be. In addition, there exists an opportunity to analyze and recommend the the revision and consolidation of a whole body of law into a comprehensible unit as a derivative effect of the ERA.

Individual articles could focus on what the revised statutes should be in the following areas, among others:

- (1) criminal law
- (2) community property laws
- (3) spousal and child support, child custody
- (4) protective legislation (maternity leave, child care sick leave, job status of pregnant employees and their husbands, etc.)